

Immigration, Refugees  
and Citizenship Canada

Immigration, Réfugiés  
et Citoyenneté Canada

Deputy Minister

Sous-ministre

Ottawa K1A 1L1

F-2021-01095109  
PROTECTED B

## MEMORANDUM TO THE MINISTER

### REPRESENTATIONS FROM DIGITAL MEDIA INDUSTRY STAKEHOLDERS IN QUEBEC

#### FOR APPROVAL

#### SUMMARY

- The digital media sector has repeatedly requested consistent and additional facilitation under the International Mobility Program (IMP) to meet its labour needs for foreign graphic designers in visual effects and animation. There are already several IMP pathways for such workers, along with access through the Temporary Foreign Worker Program. Over the past few years, the industry has also taken advantage of an IMP stream intended for film and television production workers (C14), even though it was intended to exclude graphic designers.
- In September 2021, IRCC clarified guidance for the C14 pathway while concurrently issuing a 6-month public policy to allow for the entry of foreign graphic designers through the IMP to provide the industry time to adjust its hiring practices. The scope of the public policy was aligned with the criteria for the C14 stream, which the industry claims is too limited.
- Recognizing the existing pathways in the IMP and TFWP available to the digital media sector to access foreign talent, IRCC is of the view that broader facilitation of foreign workers in visual effects and animation would not align with the policy intent of the IMP, and would lead to downstream impacts such as wage suppression, worker vulnerability, and requests for similar treatment from other industries facing labour shortages.
- 
- 

#### BACKGROUND

- Temporary foreign workers are an important source of labour and talent for Canadian employers, who rely on them to meet workforce demands. Employers are able to hire foreign workers through two main pathways:

PROTECTED B

- The **Temporary Foreign Worker Program (TFWP)** enables employers to fill specific jobs with foreign workers when no qualified Canadians or permanent residents are available to do the work. Employment and Social Development Canada (ESDC) confirms the need for a foreign worker through a Labour Market Impact Assessment (LMIA), which is used to support a work permit application that is assessed by IRCC.
  - The **International Mobility Program (IMP)** facilitates foreign workers by exempting them from the LMIA requirement when their work will result in significant social, cultural, or economic benefits, opportunities, or reciprocal advantages for Canadians. Foreign workers admitted under the IMP primarily enter into higher-skilled (e.g. managerial, professional, and some technical) occupations. This program is entirely administered by IRCC.
- The C14 LMIA exemption was created in 2016 as an IMP stream to facilitate the work of high-wage, unionized talent such as actors, directors and producers essential to the production of live-action television and film in Canada. Their work was considered to create significant benefits for Canadians through the attraction of foreign productions to Canada, and the spin-off economic benefits of filming on location. Post-production digital media work was not seen to create the same level of benefits, and therefore graphic designers (which includes visual effects and animation) were not eligible under this provision.
  - Over time, the film and television industry nonetheless came to rely on C14 as a means to obtain LMIA-exempt work permits for graphic designers, many of whom were approved on arrival by CBSA officers when then they should not have been, due to ambiguous operational guidance from IRCC. Following industry complaints about inconsistent decision-making, IRCC clarified the C14 Program Delivery Instructions, as approved under Memorandum F-1180500 (see Annex A), to support decision makers in determining if the foreign national's work meets the "significant benefit" requirement, as set out in the *Immigration and Refugee Protection Regulations*.
  - Ministerial approval of Memorandum F-1180500 also included the introduction of a six-month public policy, in place since September 10, 2021, as an interim measure enabling graphic designers working on live-action television and film productions in Canada to obtain LMIA-exempt work permits through the IMP. The public policy is facilitative in that it goes beyond the scope of the C14 exemption by including pre- and post-production work – where graphic designers are generally employed – but retained other C14 criteria such as the requirement to be working on a live-action production.
  - In September 2021, your predecessor received correspondence (see Annex B) from the \_\_\_\_\_ and five digital media companies raising concerns about the scope of the recent temporary public policy for graphic designers and requesting further facilitation. Annex C outlines industry concerns with the public policy. These can be summarized as:
    - the scope of the public policy is too limited; by restricting eligibility to live-action projects being filmed in Canada, by excluding other in-demand occupations in

PROTECTED B

- television and film, by excluding all animated productions, and by excluding recent graduates via the minimum salary requirement;
- Graphic designers whose work permit applications are in process under C14 may be refused and future hires will be ineligible;
  - The requirement to specify, in advance, which productions each foreign worker will be working on is not viable in a project-based industry.
- Whereas the industry had been hoping for greater access under the IMP, the clarified guidance meant that graphic designers would generally be ineligible under C14, as originally intended. The temporary public policy was put in place to give the sector time to re-orient its hiring practices toward the TFWP or other IMP options such as intra-company transferees, international trade agreements, or the International Experience Canada youth mobility program (see Annex D). As of October 31, the Department had received 67 applications under the public policy – 37 have been approved, none have been refused, and the rest are still in process. The majority of the applicants (50) have job offers with digital media companies in Quebec.

## CURRENT STATUS

- The letters from Quebec film and television industry stakeholders state that the digital media sector is growing at a rate of 28% per year, with companies in global competition to take on new projects, attract talent, open new studios, and remain one of the most recognized creative hubs in the world. The lack of qualified visual effects and animation workers is threatening the existence of many Canadian studios, which are unable to fill 2000 open positions in Quebec alone, many of which are lower-paid, junior positions (25% of the workforce in Quebec's digital media sector is at the junior level, earning a median salary of only \$47,411). Studios say Canadian schools cannot produce new graduates fast enough to meet the demand, so they must turn to foreign sources of talent.
- Labour market information from Employment and Social Development (ESDC) indicates that the graphic designers occupational group is expected to face limited labour shortage conditions over the next 6 years at the national level, especially on the digital side, with the number of job openings and domestic job seekers projected to be relatively similar over this period.
- Emploi-Québec deems that, over the next 2-3 years, the labour market outlook for graphic design occupations in Quebec is in balance or in light deficit, depending on the region. Stakeholders report localized shortages in specialized roles, particularly in Montreal's digital media hub. Short-term labour crunches occur when studios bid on new projects, which they can take on only if they can quickly hire sufficient workers. There seems to be a particular need to attract entry-level, relatively lower-paid visual effects and animation talent.

PROTECTED B

## CONSIDERATIONS

- The film and television industry's need for foreign workers, including graphic designers, is not in dispute. At issue is determining which lever for hiring those temporary foreign workers best advances Canada's interests.
- The objective of the TFWP is to enable employers to hire foreign workers in situations of temporary labour shortage. The LMIA process ensures Canadians are considered first for available jobs, and encourages employers to invest in training a Canadian workforce to fill vacancies over the longer term.
- By exempting employers from the LMIA process, the IMP facilitates work permits for certain foreign workers whose specific work is considered to bring significant benefits to Canada. In creating LMIA exemptions, the Department endeavours to strike the appropriate balance between advancing Canada's broader economic, social, and cultural interests and protecting opportunities for Canadians.
- Expanding facilitation by exempting additional foreign workers in television and film from the LMIA requirement would be inconsistent with the principles of the IMP, as:
  - industry has not demonstrated how facilitating the entry of foreign workers to fill visual effects and animation roles creates significant benefits or opportunities for Canadians, as opposed to just benefitting the individual companies;
  - it could further increase the sector's reliance on foreign workers and suppress wages: it would enable employers to fill positions with foreign talent without having to raise wages to attract domestic talent that would otherwise be the solution to labour shortages, which would discourage Canadians from pursuing careers in digital media;
  - the incentive for industry to invest in and develop Canadian talent would be lost if this occupation was facilitated with an LMIA exemption;
  - it could raise the risk of foreign workers finding themselves in vulnerable circumstances, as it would remove protections in place under the TFWP to ensure appropriate wages and working conditions; this is particularly concerning given multiple media reports of poor working conditions in the digital media sector (e.g. long hours, unpaid overtime, fear of reprisal for speaking out – see articles in Annex E); and,
  - it would inevitably result in requests for similar facilitation from other parts of the entertainment industry (e.g. video games) as well as other industries that also rely heavily on foreign workers through the TFWP (hospitality, tourism).

## PROTECTED B

- Based on the above considerations, and the fact that all applications under the public policy have been approved so far, IRCC considers that both the C14 exemption and the public policy are scoped appropriately, and aligned with the regulatory basis of the IMP. When the public policy for graphic designers expires on March 9, 2022, the TFWP will remain available for employers to use when hiring foreign workers not eligible under existing provisions of the IMP.
- All but one company that recently wrote letters requesting IMP facilitation have used the TFWP successfully to hire graphic designers. While they remain reticent to use it due to the additional cost (\$1000 fee per position), administrative burden, and the additional time the LMIA adds to the hiring process, the film and television industry can nonetheless benefit from facilitations already in place within the TFWP:
  - Under the Global Talent Stream (GTS) of the TFWP, employers in Quebec hiring digital media talent with specialized skills and experience at a salary of \$75K or higher (\$80K in the rest of Canada) are eligible for a 10-day service standard for LMIA processing, and expedited 2-week work permit processing. A key component of this stream is the requirement for employers to develop Labour Market Benefit Plans and commit to certain activities of benefit to the Canadian labour market. Across Canada, employers using this stream to hire NOC 5241 workers have committed to create almost 4,700 jobs for Canadians/Permanent Residents, almost 600 new internship positions and invest over \$6M in training.
  - When hiring junior digital media talent not eligible under the GTS, Quebec employers benefit from the *Processus Simplifié* (see Annex D for details).
- Given shared immigration responsibilities with Quebec, LMIA applications are processed by both levels of government, so any further facilitation under the TFWP would require consideration of federal and provincial priorities. ESDC, responsible for the TFWP, is the appropriate department to lead on further discussions with the industry, and would consider requests for facilitation on their merits. Further expediting processing for the digital media sector would come at a cost, however, as ESDC is prioritizing LMIAs for other industries facing shortages of essential workers, including critical sectors such as agriculture and health care.

## CONSULTATIONS:

- ESDC has indicated support for IRCC's position. Canadian Heritage has confirmed that growing digital media industry capacity in Canada by means of hiring more foreign workers is not the intent of available tax incentives. Stakeholder feedback received through the Department's outreach officers confirm that digital media employers in British Columbia and Ontario are successfully using existing federal and provincial programs to hire foreign workers while investing in developing talent locally.

## RESOURCE IMPLICATIONS

s.21(1)(a)

s.21(1)(c)

-6-

PROTECTED B

- There are no resource implications associated with this proposal.

## COMMUNICATIONS IMPLICATIONS

- 

- A responsive-only communications approach is recommended. , and messaging would be developed if and when the Department receives a media inquiry.

## RECOMMENDATIONS:

- 

- 

-

s.21(1)(a)

s.21(1)(b)

s.20(1)(b)

-7-

PROTECTED B

**NEXT STEPS:**

- 
- IRCC will continue to engage with Global Affairs Canada, Invest in Canada, and municipal Global Skills Strategy referral partners such as Montreal International to support the digital media sector in using existing programs to attract and retain global investment and talent.

Caroline Xavier  
Associate Deputy Minister

Catrina Tapley  
Deputy Minister

☐ I concur  
☐ I do not concur

---

The Honourable Sean Fraser  
Minister of Immigration, Refugees and Citizenship

**Annexes (4):**

Annex A: Memo to the Minister F-2021-01180500 - Temporary Public Policy

Annex B: Correspondence

Annex C: Summary Table of Industry Concerns & Considerations

Annex D: TFWP & IMP Pathways for NOC 5241

Annex E: Media reports on Working Conditions for Digital Media Workers

Immigration, Refugees  
and Citizenship Canada

Immigration, Réfugiés  
et Citoyenneté Canada

Deputy Minister

Sous-ministre

Ottawa K1A 1L1

**F-2021-01095109 Annex A**

F-1180500

PROTECTED B

## MEMORANDUM TO THE MINISTER

### FACILITATION FOR GRAPHIC DESIGNERS

#### FOR APPROVAL

#### SUMMARY

- The purpose of this memorandum is to seek your approval: 1) of a temporary public policy to facilitate the issuance of work permits to graphic designers working on live action projects in the television and film industry; and 2) to post updated guidelines on the C-14 labour market impact assessment (LMIA) exemption to clarify its scope.
- The enclosed public policy would provide temporary flexibility to the film industry so it can deliver on projects in the immediate term. In the longer term, the updated C-14 guidance would help ensure consistency in decision-making, providing coherence and clarity for the industry.
- We recommend that you approve the public policy by signing both the English and French versions of the policy attached at Annex A by July 23, 2021. This would allow the Department to launch the measure on August 23, 2021, including finalizing and publishing officer guidelines and client instructions for applications.

#### BACKGROUND:

- There are two programs that allow foreign nationals to work in Canada temporarily – the Temporary Foreign Worker Program (TFWP) and the International Mobility Program (IMP).
  - The TFWP helps employers fill labour shortages on a temporary basis when no qualified Canadian citizens or permanent residents are available. An LMIA is required and employers must pay a fee of \$1,000 per position.
  - The IMP lets employers hire temporary foreign workers without an LMIA; exemptions are based on broader economic, cultural or other competitive advantages for Canada or reciprocal benefits enjoyed by Canadians and permanent residents. There is a \$230 employer compliance fee per position.
- Both programs include pathways that facilitate the entry of temporary foreign workers in graphic designer positions (see Annex B for details and statistics on entry).



s.20(1)(b)

-2-

s.21(1)(a)

s.21(1)(b)

PROTECTED B

- The C-14 LMIA exemption was created in 2016 to facilitate the entry of foreign nationals to work in live action film and television productions where the physical presence of foreign workers on location is required (e.g. actors, directors, choreographers), and where they occupy high-wage and unionized positions. These considerations were established after extensive consultation with industry and labour unions, and aimed to strike a balance between attracting foreign projects/productions while protecting opportunities for Canadians.
  - Graphic designers were not included under this exemption as these occupations are not uniformly high-wage nor unionized, making it difficult to suggest a significant benefit to Canada would be created through an occupation-based LMIA exemption.
- The film industry is seeking blanket facilitation to allow them to hire graphic design foreign workers without requiring an LMIA. This issue has come to the forefront, in part, due to industry efforts to include graphic designers in under the IMP's C-14 LMIA exemption, and in response to inconsistencies in decision-making on these applications. Specifically, it was discovered that several work permits have been issued to graphic designers under C-14 in error, leading to stakeholder frustration.

## CURRENT STATUS:

### Industry stakeholders

- Ministers have received several letters in recent weeks from industry stakeholders (primarily in Quebec) on the subject of graphic designers, e.g.,:
  - The [redacted] has indicated the industry needs access, within reasonable timeframes, to foreign graphic design talent at all levels and has asked that C-14 guidance be clarified to include graphic designers as being eligible for this LMIA exemption.
  - [redacted] wishes to hire junior foreign graphic design talent – with an expected annual salary of \$40,000, which is well below the median salary of \$58,000 for graphic designers in Montréal under C-14.
  - [redacted] in charge of attracting foreign direct investments to those cities, have also sought clarity on how and when C-14 can be used.
- Following discussions with stakeholders and others, your office asked the Department to develop an immediate, short-term and facilitative solution. A temporary public policy would provide the industry with time to reorient their hiring practices toward existing and appropriate work permit pathways while allowing employers to ramp up capacity as part of post-pandemic recovery.
- The Department has prepared a six month public policy that would allow for the issuance of LMIA-exempt work permits to graphic designers who are:

PROTECTED B

- working on live action television or film productions filmed entirely or in part in Canada. This criteria aligns with the policy intent of the C-14 exemption and limits the entry of graphic designers to this industry and these types of projects/productions. It allows for pre- and post-production work linked to a live action television or film production. Animated films are not included in the public policy within the scope of C14 as there is no on-location filming component.
- paid at or above the median wage. This criteria aligns with the C-14 exemption, ensuring that domestic wages are not suppressed and that Canadian workers are not displaced for entry-level positions; and
- provide evidence (e.g. letter from the production company) that the project or production qualifies for tax credits or government funding. This criteria demonstrates that a federal, provincial or territorial government has assessed the production as being deserving of investment. This criteria aligns with information requested as part of a C-14 application.
- The public policy will provide facilitation beyond what is contemplated by C-14 (e.g., unlike C-14, there is no requirement that the occupation be unionized, and activities can span pre-, in- and post-production). However, the public policy still retains key elements of C-14, including requiring that projects be supported by government investment (in the form of tax credits) and be filmed in whole or in part in Canada. Foreign graphic designers seeking to work on projects that are not filmed in whole or in part in Canada would not qualify under the public policy, but could still enter through the TFWP.
- Updated C-14 guidance (see Annex C) to help guide officers in their decision-making, including examples of scenarios where C-14 may and may not apply. The Department has noted that these considerations apply only to the C-14 exemption code, and provided the rationale as to how each consideration meets the threshold of significant benefit. It has also alerted officers to the fact that a foreign national who does not meet the considerations can still be assessed on a case-by-case basis to determine whether their work would be of significant benefit under paragraph 205(a) of the regulations, or the broader C10 exemption.
- It is expected that once C-14 guidance is updated, only graphic designers who are high-wage, unionized and working on live film and television productions will be able to demonstrate that their work creates or maintains a significant benefit or opportunities for Canadians or permanent residents and thus qualify for a C-14 work permit. They will join other top talent – actors, comedians, directors, choreographers, etc. – who are facilitated under C-14 based on the same criteria, such that applications are assessed fairly across the board. This will help ensure consistency in decision-making and signal the narrow scope of this exemption, allowing industry stakeholders to plan their future projects accordingly.
- If the public policy is brought into effect, IRCC and ESDC would work with the industry to ensure understanding and clarity on available regular pathways under the IMP and TFWP. For example, IRCC outreach officers in Montréal, Toronto and Vancouver are well-positioned to provide information regarding existing IMP pathways that may respond to industry needs for foreign workers (e.g. International Experience Canada).

PROTECTED B

### Considerations

- It appears the primary reason for industry's reluctance to use the TFWP is the length of time necessary to receive a decision. For example, employers in Quebec hiring Digital Media Designers at a salary of \$75K or higher are eligible for an expedited (10-day) LMIA processing service standard through the Global Talent Stream, as well as expedited work permit processing. This suggests the industry's main concern lies with lower-paid positions.
- The purpose of the TFWP is to address labour shortages, just as it does for the agricultural or healthcare sectors, which were deemed critical during the pandemic, and yet do not benefit from LMIA exemptions. Meanwhile, an LMIA exemption – which allows employers to forgo the labour market test – gives unhindered access to the labour market. The measure proposed is intended to be temporary to provide for a period of adjustment.
- Expanding the C-14 exemption to include all graphic designers in the television and film industry – including animated projects/productions – would be difficult to justify, particularly given heavy reliance in the industry on low-wage foreign workers (which may take work away from Canadians, or suppress wages for this occupation). In particular:
  - Expanding the public policy scope to include animated films would not align with the intent of the C-14 exemption to facilitate work permit issuance for individuals essential to the production (or filming) stage of television and film project.
  - C-14 work permits are issued under “significant benefit” provisions – it would be challenging to weave low-wage graphic designers into an exemption that is framed as being for high-wage and unionized workers. As officers issuing work permits must make the determination on whether a foreign national's entry into Canada to work creates this “significant benefit”, such an exemption would not necessarily improve consistency in decision-making.
- Existing “significant benefit” exemptions rarely focus on specific occupations but instead on types of workers (e.g., intra-company transferees, emergency repair personnel). An LMIA exemption for this occupation would likely invite scrutiny and requests for similar facilitation from other industries that rely heavily on foreign workers. It would be difficult to justify how this occupation warrants such facilitation when it is not provided to workers in essential services such as those who grow/process food or provide healthcare.

PROTECTED B

- The Department anticipates that stakeholders will continue to push for broader facilitation (i.e., no time limit on the public policy; no wage floor; expansion to animated television/film productions; no requirement for an in-Canada filming component). Clear and consistent messaging will be necessary to mitigate this pressure, including to ensure stakeholders remain aware that graphic designer positions that do not qualify for the public policy or updated C-14 exemption may still qualify for entry through the TFWP.

#### **CONSULTATIONS:**

- The Canada Border Services Agency (CBSA) and ESDC were consulted. CBSA has no operational concerns with the parameters of the public policy, which provide a clear list of criteria that must be met in order for an applicant to be issued a work permit.

#### **RESOURCE IMPLICATIONS:**

- There are no resource implications associated with this proposal.

#### **LEGAL IMPLICATIONS:**

#### **COMMUNICATIONS IMPLICATIONS:**

- The industry stakeholders who have approached the Government have not sought media attention for their position in the past and no media calls have been received to date.
- While the posting of new guidelines could elicit questions about the rationale behind expanding the policy, because this has not been a high-profile issue in media or social media, a responsive communications approach is recommended. Implicated stakeholders would be informed through responses to their letters, and communications messaging would be developed if and when the Department receives a media inquiry.

PROTECTED B

**RECOMMENDATION:**

- We recommend that you approve the public policy by signing both the English and French versions of the policy attached at Annex A by July 23, 2021. This would allow the Department to launch the measure on August 23, 2021, including finalizing and publishing officer guidelines and client instructions for applications.

**NEXT STEPS:**

- Should you approve, this public policy will come into effect on August 23, 2021 and will expire six months later, on February 23, 2022. Any changes to the public policy may delay the implementation date. The six-month duration would provide time for stakeholder consultation on a way forward.
- The Department will post updated C-14 program delivery instructions concurrently with the posting of the public policy. Following your decision, the Department will also prepare responses, for your review, to a number of letters that have been received from implicated stakeholders.
- Over the medium term, IRCC will work with ESDC to engage the television and film industry on navigating temporary worker pathways.

***E-approved July 19, 2021***

Caroline Xavier  
Associate Deputy Minister

Catrina Tapley  
Deputy Minister

**Annexes (3):**

- A: Temporary Public Policy to Exempt Foreign Graphic Designers from Certain Work Permit Requirements (English and French)
- B: Graphic Designers: TFWP and IMP Pathways and Statistics on Work Holders
- C: Draft Updated Program Delivery Instructions for C-14

## F-2021-01095109 Annex B

**Attention of:**

The Honourable Marco E. L. Mendicino, P.C., M.P.  
Minister of Immigration, Refugees and Citizenship  
House of Commons  
Ottawa, Ontario  
K1A 0A6

**BY EMAIL**

September 15, 2021

**Subject: FOR IMMEDIATE ATTENTION – Urgent situation re: Temporary public policy: Graphic designers working on live-action television or film in Canada**

Dear Minister,

First, we would like to thank your office for recognizing the severe labor shortage of the **Canadian visual effects industry** and putting forward a **temporary public policy** on September 10<sup>th</sup>, 2021, allowing **Graphic designers** (CNP 5241) to benefit from **the Labour Market Impact Assessment (LMIA) exemption** to come work on visual effects projects in Canada.

However, the temporary public policy in its current form is unfortunately **making it more difficult if not impossible to obtain work permits under the graphic designers' category**. In fact, far from offering support for the Covid-19 recovery efforts, it restricts access to an already very limited number of artists as well as its support staff. The Canadian **visual effects and animation industry is growing fast (28% per year) and its studios have never been in higher demand**. We wish to bring to your attention **critical issues** to reconsider with regards to the eligibility criteria listed in the temporary policy.

One of the criterion in question is worded as follows:

*"To be eligible under this public policy, a foreign national must:*

- be intending to perform work for one or more named live-action television or film productions **being filmed** in whole or in part in Canada, whether at the pre-production, production or post-production stage"*

The use of the word "filmed" here creates confusion as it restricts eligibility only to projects physically filmed in Canada, either in whole or in part. This appears to be the same in the French version of the policy, with the use of the word "*tournage*".

Furthermore, it contradicts the policy's objective, which is stated as "*facilitating the entry of certain graphic designer workers*" and "*[helping the] industry meet immediate staffing needs in support of COVID-19 recovery efforts.*"

In fact, most visual effects (VFX) projects produced in Canada are filmed in other jurisdictions. This criterion therefore **severely limits** the number of eligible projects, and thus, the possibility for Canadian companies to recruit qualified foreign workers using this temporary policy. As a result, workers whose file were already in process have been rejected and the hires we're attempting to bring in are still considered ineligible to this day.

Our understanding, informed by the joint collaborative efforts of our office and yours over the past several months, is that this is not the intent but perhaps a confusion in the choice of words.

The **opening paragraph** of the temporary policy confirms this understanding **with a clear and precise statement** that makes no mention of the need for productions to be physically filmed in Canada:

*"A temporary public policy has been issued to provide a Labour Market Impact Assessment (LMIA) exemption to facilitate the issuance of employer-specific work permits to eligible foreign graphic designers who are coming to Canada to undertake work activities **for all production stages (pre-production, production and post-production)** related to live-action television and film projects and productions."*

### **REQUEST**

We ask that you urgently consider modifying the wording of the eligibility criteria in question **to confirm the eligibility of all productions where one or more stages** (pre-production, production, post-production) are carried out in Canada.

The existence of many Canadian studios is now at stake due to this lack of qualified workers. In Quebec alone, there are close to 2000 open positions that studios are unable to fill. Securing the interpretation of the temporary policy for the use of all border services agents will allow the entire Canadian visual effects and animation industry to benefit from these much-needed workers.

We would also like to bring to your attention the fact that NOC 5131 (Producers) and NOC 0512 (Managers in Motion Pictures) have been excluded from the temporary policy, whereas it was always included in all the previous conversations we had with your office. These categories are as critical to the industry as NOC 5241 – Graphic Designers is. **We ask that you please reconsider including NOC 5131 and 0512 as eligible.**

### **Other urgent considerations include:**

- The entire **Animation** sector has been excluded from the temporary policy, when applications were previously possible under the C-14 program. This will greatly impact their growth as their workforce needs for graphic designers are just as high as the VFX industry.
- The **minimum salary** requested in the policy comes up to \$58,000 (Montréal) or \$60,500 (Toronto). In other words, this excludes all the graduates, or the "new generation" of graphic designers who are currently in high demand in VFX and Animation. As we have a great need for "junior" type workers, consisting of more than 25% of the workforce, it will be impossible for us to fill these positions which have a median salary of \$47,411 (QC).
- Finally, we would like to clarify with you the **minimum education requirements**: *"A university degree in visual arts with specialization in graphic design, commercial art, graphic communications or cartooning or completion of a college degree program in graphic arts is required."* We understand your intent to attract talent with the proper training, however, being a creative industry, many of our workforce have learned through their work experience and personal training. It would therefore be recommended that the employee's experience be recognized for training.

We sincerely hope that you will consider our request to amend the policy, with the goal of enabling our resilient sector to continue to create high-value jobs, to contribute fully to the Canadian economy, to be a driving force for the relaunch of our economy and to remain one of the most recognized creative hubs in the world.

We would greatly appreciate meeting with you and IRCC officials at your earliest convenience.

We thank you in advance for your consideration and remain at your disposal should you have any questions or require additional information.

Yours sincerely,

**CC:**

Mrs. Michèle Kingsley, Director General for Immigration, Refugees and Citizenship Canada

Mr. André Baril, Director General, Immigration Program Guidance Branch

Mr. Malcom Eales, Director, Temporary Resident Program Delivery, Immigration, Refugees and Citizenship Canada.

Mrs. Cinthia Roberge - Senior Policy and Program Advisor to the ADM and AADM, Immigration, Refugees and Citizenship Canada.



F-2021-01095109 Annex C

NOC 5241 Visual Effects and Animation Occupations in Film and Television – Industry concerns with Public Policy and brief analysis

The table below summarizes the concerns set out in letters from the

each concern, the current scope of the Public Policy and rationale are provided, along with information about existing options available for hiring foreign workers in NOC 5241 occupations.

For

Industry Concern	Industry Request	Current Scope of Public Policy/Guidance	Rationale for Current Scope	Alternative Pathway(s) Available
Scope of the Public Policy <b>restricts eligibility</b> to projects <b>being filmed in Canada</b> (in whole or in part) whereas many visual effects projects are filmed outside of Canada	Modify scope to <b>remove in-Canada filming requirement</b>	<b>Public Policy eligibility criteria:</b> Where a foreign national has submitted a work permit application under section 200 or 201 of the IRPR, <div><div>i.</div><div>for work in an occupation that is included in unit group 5241 - Graphic designers and illustrators, of the National Occupational Classification (NOC) system as defined in section 2 of the Regulations;</div><div>ii.</div><div>where the <b>work to be performed</b> is for one or more named live action <b>television or film production(s)</b> in Canada <b><u>that is/are being filmed, in whole or in part, in Canada</u></b></div></div>	<p>The criteria to be filmed in whole or in part in Canada is consistent with the administrative code C-14, which is an LMIA exemption based on R205(a). It supports the attraction of TV/film productions to geographic locations in Canada, while protecting job opportunities for Canadians and permanent residents. It recognizes that a majority of jobs in the production would be filled locally, but ensures that the small minority of critical production personnel (headline actors, director, producer, etc.) would have a facilitated means to enter Canada to work. Those benefitting from the C-14 exemption are generally high-wage and unionized.</p> <p>Live film/TV productions generate substantial economic spin-offs for local/regional areas, and are supported by Government of Canada tax credits which provide substantial incentive to hire Canadians and permanent residents. This is the <b>significant benefit to Canada</b> that enables the use of R.205a.</p> <p>Further analysis required to determine what labour market and economic spin-off benefits would exist for projects with no in-Canada filming component.</p>	<p>The Temporary Foreign Worker Program (TFWP) provides an existing pathway for foreign workers to work in non-live action productions in NOC 5241 occupations at all wage levels.</p> <p>Foreign workers in NOC 5241 occupations at a salary greater than \$80K (\$75 K in Quebec) are eligible for expedited LMIA processing under the Global Talent Stream.</p> <p>In Quebec, the TFWP’s “<i>Processus Simplifié</i>” removes the requirement for employers to demonstrate a labour shortage, recruitment efforts, or proof of job creation for Canadians. It also allows Quebec employers to pay a wage as low as the first quartile (25%) of wages for the occupation.</p>
Entire <b>Animation sector is excluded</b> from the Public Policy	Modify scope to capture <b>ALL productions</b>	<b>Public Policy eligibility criteria:</b> Where a foreign national has submitted a work permit application under section 200 or 201 of the IRPR,	Aligns with policy intent of the administrative code C-14 LMIA exemption, which facilitates the entry of foreign nationals to work in <b>live action</b> film and television productions where the <b>physical presence of foreign workers on</b>	The TFWP provides an existing pathway for foreign workers to work in animated and other non-live action productions in NOC 5241 occupations.

		i. for work in an occupation that is included in unit group 5241 - Graphic designers and illustrators, of the National Occupational Classification (NOC) system as defined in section 2 of the Regulations;  ii. where the <b>work to be performed is for one or more named <u>live action</u> television or film production(s) in Canada</b> that is/are being filmed, in whole or in part, in Canada	<b>location is required</b> (e.g. actors, directors, producers, choreographers).	
NOC 5131 (Producers), NOC 0512 (Managers in Motion Pictures), NOC 5226 (Coordinators) have been excluded from the Public Policy	Include NOC 5131, NOC 0512, and NOC 5226 in the scope of the public policy	<b>Public Policy eligibility criteria:</b> Where a foreign national has submitted a work permit application under section 200 or 201 of the IRPR,  i. <b>for work in an occupation that is included in unit group 5241 - Graphic designers and illustrators</b> , of the National Occupational Classification (NOC) system as defined in section 2 of the Regulations;	The scope of the Public Policy is focused on NOC 5241 as this was the sole occupation raised in previous letters from the industry.  The IMP is not intended to be a mechanism for industry to fill labour shortages – this is the role of the TFWP. In any case, Labour Market Information on ESDC’s Job Bank indicates no current or forecasted labour shortages in these occupations.	NOC 5131 is eligible for the Global Talent Stream (at salary greater than \$80K)  The additional occupations indicated in more recent letters may be able to access use C-14 or another LMIA exemption under the IMP. Film co-producers (NOC-5131) also have an LMIA-exempt route if they are entering under the terms of a film co-production approved by Telefilm (R204, code T11).  NOCs 0512 and 5226 are eligible for entry through the TFWP.  NOC 0512 and NOC 5131 both benefit from expedited work permit processing under the Global Talent Stream.
Minimum salary requirements are too high, <b>excludes recent graduates</b> (“the new generation of graphic designers”)	No request specifically stated - letters indicate that “junior-type” graphic designers earn a median salary of \$47,411 in QC	<b>Public Policy eligibility criteria:</b> Where a foreign national has submitted a work permit application under section 200 or 201 of the Immigration and Refugee Protection Regulations,  iii. where offer of employment that accompanied the application provides for <b>a wage that is at or above the median wage - as identified by the Job Bank of Canada Employment Insurance Commission - for the occupation referred to in (i)</b> in the region where	Public Policy criteria align with the administrative code C-14 LMIA exemption, ensuring that domestic wages are not suppressed and that Canadian workers are not displaced for entry-level positions.  Removing or reducing the wage requirement could result in a ‘race to the bottom’ for wages in this occupation/sector, and discourage Canadian interest in such work.	The TFWP provides an existing pathway for <b>lower-wage/entry-level</b> TFWs to work in NOC 5241 occupations.  In QC, the TFWP’s “ <i>Processus Simplifié</i> ” removes the requirement for employers to demonstrate a labour shortage, recruitment efforts, or proof of job creation for Canadians. <b>It also</b>

		the employment is offered or, if there is no median wage identified for that occupation in that region, at or above the provincial median wage for that occupation, or if there is no median wage identified for that occupation in that region or province, at or above the national median wage for that occupation;	Meanwhile, the television and film industry in BC has been working with local post-secondary schools to encourage domestic participation in visual effects and animation, thereby creating a domestic pool of junior talent. Further facilitating foreign workers would beat cross-purposes with this initiative.	<b>allows QC employers to pay a wage as low as the first quartile (25%) of wages for the occupation.</b>
Seeking clarification on <b>minimum education requirements</b>	Recognize employee experience as equivalent to education	Education requirements are not explicitly stated in the Public Policy.  As per Job Bank, for NOC 5241, “A university degree in visual arts with specialization in graphic design, commercial art, graphic communications or cartooning or Completion of a college diploma program in graphic arts <b>is required.</b> ”	The minimum education requirements are attributed by the National Occupational Classification system.  When assessing applications, officers review foreign nationals’ education credentials against NOC requirements as part of assessing whether the worker can “perform the work sought” in Canada. The NOC is used to ensure a standard assessment by officers.	N/A – the same criteria would apply for LMIA-supported work permit applications.
<b>Pending C-14 work permit applications</b> (initial or extension) will be rejected/refused	Not explicitly stated, but understood to be requesting expansion of the Public Policy as noted above to enable these individuals to obtain LMIA-exempt work permits	Clarified C-14 guidance may result in refusal of work permit applications for graphic designers (initial or extension).	Confusion over the specific requirements for the administrative code C14 LMIA exemption led to work permits being issued in error. IRCC does not want continue to compound the error.	The TFWP would provide an avenue for initial work permit applications for such individuals, albeit not in a timely manner as desired by industry in these cases.  The clarified C-14 guidance also specifies that officers can assess such applications under the broader requirements of “significant benefits” administrative code C10, which is also based on R205(a).
Visual effects is a project-based industry – <b>requirement to specify each production</b> a foreign national will be working on is not viable.	Allow work permit holders to work on several productions even if not initially listed, for the duration of the work contract.	<b>Public Policy eligibility criteria:</b> Where a foreign national has submitted a work permit application under section 200 or 201 of the IRPR,  i. for work in an occupation that is included in unit group 5241 - Graphic designers and illustrators, of the National Occupational Classification (NOC) system as defined in section 2 of the Regulations;	The specification of the production allows IRCC to confirm that the production qualifies for tax credits or government funding which is consistent with the administrative code C14 LMIA exemption. Live film and television productions generate substantial economic spin-offs for local/regional areas, and are supported by Government of Canada tax credits which provide substantial incentive to hire Canadians and permanent residents. This is the <b>significant benefit to Canada</b> that enables the use of R 205(a).	The TFWP would provide an avenue for work permit applications for such individuals. The LMIA would allow for longer duration WPs, and for more positions to be approved with one LMIA application. A single LMIA can be approved for any number of positions whereas each offer of employment under the IMP is for a single position. Under the TFWP, employers could request the number of positions to fill their annual needs with

		<b>ii.</b> where the <b>work to be performed</b> is for one or more named live action <b>television or film production(s)</b> in Canada <b><u>that is/are being filmed, in whole or in part, in Canada</u></b>		a single LMIA application, thereby reducing overall processing times.
--	--	--	--	---

## F-2021-01095109 Annex D

### Existing pathways and facilitation measures that can be used to hire foreign workers in NOC 5241 Graphic Designers and Illustrators occupations

- Foreign workers in visual effects and animation (classified under code National Occupational Classification (NOC) 5241: Graphic Designers and Illustrators) may be eligible for work permits under several streams of IRCC's International Mobility Program (IMP).
- Most foreign workers in this occupation are hired by employers in Canada's three digital media hubs: Montreal, Toronto, and Vancouver. The chart below gives the breakdown by province of the program streams under which they applied for work permits in 2019, 2020, and 2021 (up to August 30<sup>th</sup>).
- Quebec employers have been the biggest users of the International Mobility Program to hire NOC 5241 foreign workers, over half of a whom have applied under administrative code C14.
- Those not eligible for an exemption under the IMP need Labour Market Impact Assessment (LMIA) before they can apply for a work permit. LMIAs are issued under ESDC's Temporary Foreign Worker Program (TFWP), which includes digital media occupations under its expedited Global Talent Stream.

#### Work Permit Applications under NOC 5241 by Select Province of Destination, and year in which permit became effective, 2019-2021

	2019			2020			2021 (Jan. – Aug.)		
	QC	ON	BC	QC	ON	BC	QC	ON	BC
<b>Temporary Foreign Worker Program</b> (LMIA-required)	437	77	383	241	54	207	155	55	220
<b>International Mobility Program*</b> (all exemption categories)	2,298	215	663	1,552	210	495	1,238	137	488
A75 - Bridging employer-specific permits in Quebec (PRs)	479	0	2	474	1	1	364	0	1
C12 – Intra company transferees	57	16	19	35	7	10	14	9	9
C14 – Television and film production workers	983	59	120	686	76	34	541	52	50
C21 – Youth exchange programs	287	12	22	65	6	10	39	2	1
T13 – Provincial/territorial agreements (early entry for PRs)	1	19	76	0	11	91	0	11	59
T23 – Free trade agreements (professionals)	483	97	365	263	93	281	271	58	291

T52 – Free trade agreement (Trans-Pacific) (professionals)	15	0	21	15	3	29	12	1	24
<b>Grand Total (TFWP + IMP)</b>	<b>2,735</b>	<b>292</b>	<b>1,046</b>	<b>1,793</b>	<b>264</b>	<b>702</b>	<b>1,393</b>	<b>192</b>	<b>708</b>

### Temporary Foreign Worker Program

- The **Temporary Foreign Worker Program (TFWP)** helps employers fill labour shortages on a temporary basis when no qualified Canadian citizens or permanent residents are available. An LMIA is required (employers pay \$1,000 per temporary foreign worker position requested on an LMIA).
- Under the TFWP, employers can use the **High- and Low-Wage Streams** to hire workers in NOC 5241 occupations, including in visual effects and animation. In addition, Employment and Social Development Canada (ESDC) offers the following facilitations:
  - **Global Talent Stream (GTS):** for highly paid workers (\$75k and up in Quebec), the GTS offers “white glove” service and a streamlined LMIA application.
    - To use this stream, employers are exempted from demonstrating their efforts to recruit Canadians and permanent residents. The service standard for a GTS LMIA is 10 business days. The associated work permit application is also prioritized (target 2 weeks).
    - A subset of graphic designers and illustrators (digital media designers) is eligible for expedited processing, subject to wage and experience requirements. Applications for this occupation currently make up 21% - the second largest proportion - of Global Talent Stream volumes.
    - In June 2018, ESDC lowered the experience threshold for this occupation from five to three years, allowing more foreign graphic designers to access this program.
    - A key component of the Global Talent Stream is the requirement for employers to develop **Labour Market Benefit Plans** and commit to certain activities of benefit to the Canadian labour market. As of March 31, 2021, companies across Canada using the Global Talent Stream have committed to investing \$347 million in labour and skills training, and to hiring 109,000 Canadians/Permanent Residents. Employers hiring NOC 5241 workers specifically have committed to creating almost 4,700 jobs, almost 600 new internship positions, and investing over \$6M in training. The potential of this incentive to encourage the development of Canadian talent would be lost if this occupation was otherwise facilitated with an LMIA exemption.
- **Processus Simplifié:** Since 2020, in recognition of a shortage of graphic designers in the province, Quebec has included a subset of NOC 5241 graphic designers, animators, and digital media designers and technicians in its *Processus Simplifié* list, eligible for streamlined LMIA processing under the Temporary Foreign Worker Program.
  - This exempts employers from having to demonstrate a labour shortage and requires no recruitment/advertising efforts.
  - Employers are not required to provide proof of job creation for Canadians or transfer of skills.
  - Wages offered should be consistent with Canadian wage ranges – for NOC 5241 in Quebec this current range is from \$18.00 to \$35.99 an hour, based on years of experience required for the position.
  - Applications eligible for the *Processus Simplifié* are prioritized ahead of other applications. However, processing times can be up to 10 weeks, compared to 10 days under the GTS. A similar facilitated process, recruitment exemptions, and below-median wages is not available in other Provinces.

## International Mobility Program

- The **International Mobility Program (IMP)** lets employers hire temporary foreign workers without an LMIA. LMIA exemptions under the IMP are based on broader economic, cultural or other competitive advantages for Canada or reciprocal benefits enjoyed by Canadians and permanent residents.
- Excluding the C-14 exemption, a significant proportion of foreign, high-skilled graphic designers and illustrators (NOC 5241) already enter Canada without the need to complete an LMIA. The following table is a non-exhaustive list of IMP LMIA exemption categories that can be leveraged by employers:

IMP Exemption Categories	Description (where applicable for NOC 5241)
<b>TV/Film Certain Essential Personnel</b> (C-14)	Available to high-wage foreign workers if the work is essential to the production stage of a <b>live TV or film production</b> produced in Canada that would create and maintain significant economic benefits and opportunities for Canadians and permanent residents.
<b>Professional - Free Trade Agreement</b> (T-23, T-33, T-43, T-52)	<p>These agreements are negotiated and aim to facilitate, on a reciprocal basis, temporary entry for certain workers. Pursuant to <b>international agreement</b> between Canada and other countries, graphic designer may be eligible for this exemption under the:</p> <ul style="list-style-type: none"> <li>• Canada–United States–Mexico Agreement (CUSMA),</li> <li>• Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) (at present: for Australia, Mexico, Japan, and Peru only),</li> <li>• Canada-Chile FTA,</li> <li>• Canada-Peru FTA, or</li> <li>• Canada-Colombia FTA.</li> </ul> <p>Since December 2018, additional facilitation was made available under the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), such that graphic designers and illustrators from Australia, Japan and Mexico are now able to obtain LMIA-exempt work permits like their counterparts from the United States, Chile, Peru, Colombia and Panama. Further, new and emerging trade agreements are being explored - such as with MERCOSUR - the South American trade bloc that includes, Argentina, Brazil, Paraguay and Uruguay - that could potentially see new facilitation measures for graphic design and illustrators.</p> <p>Of note, pursuing further facilitation for graphic designers under C-14 (or any other International Mobility Program stream) can have the effect of negatively impacting Canada's ability to leverage such access in a trade negotiation. In other words, if a trade partner gets the access through domestic programming, they are less likely to pursue it in a trade agreement, which limits the international mobility of Canadian workers.</p>

<b>Positive Eligibility - Economic Classes</b> (A-75)  *for PR candidates	For Quebec only: graphic designers may obtain a <b>bridging open work permit</b> if they are <i>Certificat de sélection du Québec</i> (CSQ) holders in Quebec (i.e., those selected by the province as skilled workers to become <u>permanent residents</u> ). Candidates wishing to immigrate to Quebec through an economic program must apply for their CSQ through one of the province's programs, such as Quebec's Skilled Worker Program or Quebec Experience Program (for post-secondary graduates who earned their degrees in Quebec).
<b>Provincial/Territorial Agreements</b> (T-13)  *for PR candidates	All Provinces/Territories (excluding Quebec): qualifying foreign nationals currently in Canada who meet program eligibility may obtain a <b>bridging open work permit</b> to bridge the gap between the expiry of their current work permit and the final decision on their application for permanent residence under the Provincial Nominee Program. This is considered a significant benefit, as individuals are on a pathway to permanent residence.
<b>Youth Exchange Program (International Experience Canada)</b> (C-21)	Allows foreign workers to take up employment in Canada when Canadians have <b>similar reciprocal opportunities abroad</b> . For example, participants under the Young Professionals stream are eligible to apply for an employer-specific work permit to help them gain professional work experience in Canada. Participants under the Working Holiday stream may obtain open work permits to work for any employer in any occupation.
<b>Intra-company Transferees</b> (C-12)	Permits <b>international companies to temporarily transfer qualified employees</b> to Canada for the purpose of improving management effectiveness, expanding Canadian exports, and enhancing competitiveness in overseas markets. This applies to foreign nationals from any country, including under the General Agreement on Trade in Services (GATS), and are being transferred to a position in an executive, senior managerial, or <u>specialized knowledge capacity</u> .
<b>Reciprocal Employment</b> (C-20)	Allows foreign workers to take up employment in Canada when Canadians have <b>similar reciprocal opportunities abroad</b> . Entry under reciprocal provisions should result in a neutral labour market impact, and the <i>onus</i> is on the institutions and/or applicants to demonstrate that reciprocity exists.
<b>Francophone Mobility</b> (does <u>not</u> include Quebec) (C-16)	To promote <b>Francophone immigration in Francophone minority communities</b> , foreign nationals who are destined for a province or territory outside Quebec and <u>qualified under NOC levels 0, A or B</u> , may be eligible for this exemption. Officers need to be satisfied that the foreign national's habitual language of daily use is French; however, the language of work does not have to be French.
<b>Canadian interests - significant benefit</b> (C-10)	Intended to provide an officer with the flexibility to respond in these situations. It is not to be used for the sake of convenience, nor in any other manner that would undermine or try to circumvent the importance of the LMIA in the work permit process. Rather, intended to address those situations <b>where the social, cultural or economic benefits to Canada of issuing the work permit are so clear and compelling</b> that the importance of the LMIA can be overcome. Officers will look at the social and cultural benefit of authorizing entry to Canada for persons of international renown, such as examining whether a person's presence in Canada is crucial to a high-profile event, and whether circumstances have created urgency to the person's entry.



## **Annex E - Media reports on Working Conditions for Digital Media Workers**

### ‘Why are people dying for movies?’: Concerns raised about labour issues in Canada’s visual effects industry

The Canadian Press, Montreal, Published November 5, 2020, by Jacob Serebrin

Last April, Malcolm Angell, a 46-year-old New Zealander who moved to Montreal to work in the city’s famed visual effects industry, was taken to hospital after attempting suicide.

He was back at work two days later at Montreal-based visual effects studio Mill Film, according to his brother, Ivan. A month later – shortly after learning his mother had a brain tumour and didn’t have long to live – Angell tried to kill himself again. This time he died.

Angell’s former colleagues allege the work environment at Mill Film was toxic. They say 80-hour workweeks were common, and that Angell was regularly humiliated by his bosses. Ivan says he’s certain his brother would have quit – were it not for a clause in Angell’s contract requiring he pay a \$35,000 penalty.

The story told by Angell’s colleagues is not uncommon in Canada’s visual effects and animation sectors, according to industry insiders. Long overtime hours, often unpaid, are seen as normal, they say. And employees in these industries are vulnerable – particularly foreign workers – who toil on short-term contracts and are afraid to speak up out of fear of not getting hired again.

For Vanessa Kelly, a former animator and union organizer in Vancouver’s animation industry, Angell’s suicide is a sign that something is deeply wrong with the visual effects sector. She said similar issues exist in animation and within video game companies across Canada.

“These are movies. Why are people dying for movies?” said Kelly, general director of the Art Babbitt Appreciation Society, which is trying to organize animators in Vancouver.

Angell had nearly 20 years experience in film, and got his start working on set during the production of *The Lord of The Rings*. In August 2019, he moved to Montreal to work in the city’s visual effects industry – one of the largest in the world. Colleagues and friends say it was not long before the job started to get to him.

The Canadian Press spoke to three of Angell’s former colleagues, who painted a picture of a workplace where Angell was under extreme pressure and where bosses yelled at him during meetings. Complaints to human resources and to senior managers, they said, went nowhere.

The Canadian Press has agreed not to identify those workers because they fear repercussions. All three said people in the industry who speak out against work conditions are frequently blacklisted.

“Work kinda sucks,” Angell wrote in an e-mail to a friend in New York City in early September 2019. By November, in an e-mail to the same friend, he said he was doing the work of two

people. A planned trip to New Zealand for a wedding in February, 2020, was cancelled, his brother Ivan said in a recent interview, because Angell couldn't get the time off work.

Ivan Angell said friends noticed a change in his brother by December. The man who was described in an obituary as a "superfriend" who was always smiling, had become a "shadow of himself," he said.

Julia Neville, with the International Alliance of Theatrical Stage Employees, said fears of being blacklisted for speaking out in the visual effects industry are legitimate. Visual effects artists are precarious workers, Neville said, because their contracts are typically for one project at a time. "There's always that underlying insecurity," she said. Foreign workers, such as Angell, are "particularly vulnerable."

"They can't just cross the street and work for another visual effects house – their whole ability to work in Canada is tied to a specific employer," Neville said. Much of the film industry is unionized, while the large majority of visual effects artists are not, she explained. Long hours and unpaid overtime "are very common," she said, adding that unfair labour practices are frequent in other entertainment sectors, such as animation, reality television and in commercials.

Neville said visual effects companies try to underbid each other for work on projects produced by major movie studios. "That pressure is exerted downward onto the worker," she said. "What ends up happening is there's never enough time allotted to accomplish what you need done."

Angell's former colleagues said he was under extreme pressure to complete his part in the movie "Bios," starring Tom Hanks. They said Angell and the team he oversaw had been told by his bosses at Mill Film to finish additional work but hadn't been given more time or money to get it done.

Another element that tied Angell to his employer was his contract, a copy of which The Canadian Press viewed. The contract included a clause stating he was liable to pay Mill Film a \$35,000 indemnity should he leave in the middle of a project.

The indemnity clause identified Angell as a "key member" of the team and indicated that the company would be contractually committing Angell's services to its client. The contract said that for "certain very exceptional and serious" reasons the company could decide to waive the indemnification clause.

Adelle Blackett, a law professor at McGill University and labour law expert, said that clause "is deeply disturbing." Quebec's labour standards require employers to provide working conditions that "safeguard employees' dignity, health and well-being," she wrote in an e-mail. "An employee working in conditions of freedom must be able to terminate an employment contract with only minimally necessary restrictions."

Technicolor, Mill Film's parent company, did not make anyone available to speak on the record. In an e-mailed statement, the company said Angell's death was a "traumatic and tragic event for

his family, friends and for our team. We mourn his passing and continue to express our deepest condolences to his family.”

The company said it has introduced a new program aimed at supporting employee mental health since Angell’s death – due to the “severity and isolating nature of the pandemic.” Another program has been launched encouraging employees to “call out” inappropriate behaviour, the company said.

“Technicolor has had long-standing and robust anti-harassment policies in place in Canada. This specifically includes broad anti-bullying and related anti-retaliation policies, among others,” it said. The company said it takes complaints seriously and that it didn’t receive any formal complaints about Angell’s treatment at Mill Film.

Kelly – who quit animation work in 2017 to pursue a science degree – said unpaid overtime is common. “In animation and (visual effects) we have major skilled labour shortages,” she said, adding that companies often don’t have the budget to hire more people. “We have to fill in those gaps with overtime and they don’t want to pay us for it.”

Kelly said she got involved with union organizing after working on a project as a storyboard artist. She said her workload suddenly doubled but her deadline remained the same. The work – which required hours of unpaid overtime – damaged her wrist and her eyesight, she said.

“My physical body was being harmed, my mental capacity was being harmed and my relationships were being harmed. And I looked around and I said, what is this for? A PBS show for children?”

For many workers in animation, the job is a part of their identity, Kelly said. “People don’t do this because they just want a job, they do this because they have a skill and a passion.

“They eat, live and breathe this.” But behind the scenes, she said, “there’s blood on the screen.”

### **Les conditions dans l’industrie montréalaise des effets visuels s’apparentent à un environnement de travail toxique**

InfoBref, Montreal, Publié le 9 nov. 2020, par Alain McKenna

Le suicide récent d’un travailleur a mis en lumière les conditions de travail difficiles dans une entreprise d’effets visuels à Montréal.

Les témoignages en ligne d’autres travailleurs du secteur suggèrent que cette entreprise n’est pas un cas isolé.

Des semaines de 80 heures, des charges de travail augmentées sans avertissement par des supérieurs arrogants et des pénalités financières imposées à ceux qui quittent leur emploi: voilà des exemples de conditions de travail qu’on retrouve dans l’industrie des effets spéciaux à Montréal.

C'est ce qui ressort de la triste histoire de Malcolm Angell, un Néo-Zélandais déménagé au Québec pour travailler dans ce domaine, et qui est décédé plus tôt cet été, après deux tentatives de suicide.

Malcolm Angell était un employé malheureux de Mill Film, une division du géant Technicolor qui a depuis été fusionnée à une autre filiale appelée Mr. X.

Selon des collègues, il aurait été fréquemment humilié par ses patrons.

Son contrat de travail comprenait une pénalité de 35 000 \$ qu'il aurait eu à payer s'il avait voulu démissionner.

Son histoire, publiée par l'agence la Presse canadienne la semaine dernière, a été rapidement partagée sur le forum Reddit.

Des dizaines d'autres témoignages se sont ajoutés et dépeignent un milieu de travail toxique au sein de plus d'une entreprise du secteur.

Le problème serait même répandu dans différentes entreprises ailleurs au Canada.

Hier soir, Technicolor n'avait pas donné suite à une demande d'entrevue faite par InfoBref quelques heures plus tôt.